Declaration made on March 22, 2004 by:

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My name is Dan Wyatt and I have over 30 years experience fishing. I am an expert in the area of fishing, fishing procedures and the construction of various fishing lures. Growing up, it was not uncommon for me to go fishing every day of the week. We mainly caught blue gills, crappie and, northern pike by still fishing bait or casting lures. In the later years, I moved to Arizona where I continued to fish the lakes around central Arizona. I moved to Las Vegas, NV in 1991 and began fishing Lake Mead and Lake Mohave for striped bass since they are most prevalent in these lakes. I had great success fishing with bait rigs that I developed for the smaller striped bass and once I mastered this technique I started fishing for the larger striped bass found below Hoover Dam. I had success fishing for the big striped bass, but found myself wanting a different type of lure to target the large striped bass. After 2-3 months of trial and error I developed a large 14" plug that swam unlike any other lure available. My big lure has been very productive as I have caught many 20 to 30 pound striped bass.

However, I began to notice that small striped bass were very capable of steeling bait off of a hook without being caught. The standard practice is to impale a small piece of cut anchovy on a hook and cast this into the water. This technique proved to be unsuccessful, however. I therefore endeavored to find a better way to attach anchovies to the hook so the fish were not able to steal the bait without being hooked. This led me on a search for a material to enclose and hold the bait so the fish could not steal the bait.

I searched for a material that would at the same time protect the bait from being stolen by the fish while allowing the fish to taste and even possibly consume a small portion of the bait. I decided on a plastic expandable bait sleeve (EBS) that could allow the bait to be inserted without additional force or some other mechanism, and which could retain the bait without any other mechanism. The expandable sleeve proved to be quite

effective since the fish are not able to steal the bait and they will continually nibble at the bait until they are hooked.

During the review of my patent application, many patents were cited against my invention. Based on my analysis of those patents and my many years of experience fishing, I am able to state that these references do not represent my invention or an obvious variation thereof. Here is my analysis:

Caplan does disclose a sleeve which retains bait, however Caplan's sleeve requires a "sealing member" (figure 4) to be closed to retain the bait. Caplan does not describe how his sleeve could expand to accept bait and then constrict to retain the bait. Caplan's sleeve uses a "sealing member" to close the bag which holds the bait in, unlike the expandable bait sleeve which does not require a sealing member or other mechanism to keep the bait from falling out of the sleeve.

Franklin discloses a sleeve (surgical rubber tube) to make the body of an artificial eel lure. Franklin's device is an "artificial" lure which does not require or utilize natural bait and does not hold natural bait. It would be impractical to attempt to insert bait into Franklin's device since it uses surgical rubber tube as the sleeve member. The purpose of the Franklin device is not to retain bait, but to act as bait.

Pflueger discloses an artificial lure which would not be associated with the retention of natural bait.

Hicks discloses a holder for live bait which uses extending scale elements to engage the scale of the fish and prevent its movement back out of the holder. The expandable bait sleeve (EBS) does not require any additional retention means to engage the bait, which would only work with specific bait having scales matching the extending scale elements.

Hudson discloses a sleeve (transparent bag, sock, pouch or tube) that requires a "sealing member" (FIG 3) to close the bag or a second bag to go over the first bag to seal the bag. Hudson's device does not constrict around the bait, the sleeve is very loose around the bait (FIG 2, 4, 5, 6 and 7). The expandable bait sleeve (EBS) does not require

any type of sealing member to retain the bait, the EBS clings tightly to the bait.

Peiper discloses a sleeve with holes punched in it to disperse paste type bait. The bait is inserted into Pieper s sleeve by injecting (FIG 2) the paste bait into the sleeve. Bait cannot be easily inserted into the sleeve without the aid of a bottle or syringe which injects the bait into the sleeve. Peiper's sleeve does not expand to accept bait. If Peiper's sleeve expanded as the paste bait was inserted, the paste bait would push out of the sleeve as the sleeve constricted.

Zander discloses a metal woven mesh sleeve that does not expand to accept bait. Zander states that a "means to hold the body contracted at one end" is required to insert bait into the metal sleeve, as opposed to the EBS which expands as the bait is inserted.

Rose shows a woven metal sock which was developed from a Chinese pull used to move cargo, or a wire mesh pull used to pull wires through electrical conduit. Rose's sock is constructed by loosely weaving 8 strands of phosphor bronze wire in a helical pattern. The phosphor bronze wires are constructed from 7 individual, 0.005 inch diameter, phosphor bronze wires twisted to from a cable. The individual 0.005 inch diameter wires are very thin since a human hair is about 0.002 inch diameter and a piece of copy or printer paper is about 0.004 inch thick. The 8 strands of Rose's device begin at the tail end where they form a pull and are woven in a helical pattern to the mouth end. At the mouth end, the strands bend and return to the tail end by being woven into the helical pattern. Since Rose's device is loosely woven from 8 very thin wires, the bait fish placed inside is able to breathe while being confined in the sock and the sock does not constrict onto the bait fish until the bait fish tries to back out of the sock. Rose teaches that the sock does not constrict until the object tries to back out of the sock and that the bait fish is able to breathe while in the sock.

The Expandable Bait Sleeve is not constructed like Rose's device since the Expandable Bait Sleeve is constructed from 20 or more plastic strands, currently 144 strands for a medium diameter Expandable Bait Sleeve. The strands of the Expandable Bait Sleeve are helically woven and are terminated at the open end where the strands are fused with

opposing strands in the helical weave. This is different than Rose's teachings since Rose teaches that the strands must be bent at the mouth end so they return to the tail end. As a result, the mouth of the Rose device does not compress onto a bait in order to retain it.

Rose teaches that the strands of his sock are bent and returned at the open end forming an open end. Since the Expandable Bait Sleeve features strands that are fused together at the open end, the sleeve can close onto the bait at the open end. While Rose's sock remains away from the bait at the open end because the returning bend of Rose's strands hold the open end away from the bait.

In addition, since the Expandable Bait Sleeve is constructed from a high number of strands, the Expandable Bait Sleeve is constantly compressing onto the bait. This is important since the bait is always being held tightly by the Expandable Bait Sleeve. Rose teaches that his sock only compresses onto the bait fish when the bait fish tries to back out of the sock and that the bait is able to breathe while being retained in his sock. If Rose's sock compressed onto the bait fish at all times, the bait fish would be suffocated since the gill plates of the bait fish would not be able to open to expel water.

Anselmi shows a helically woven metal sleeve which was developed to restrain live eels. The Expandable Bait Sleeve is constructed from plastic strands while Anselmi's sleeve is constructed from wire strands. The plastic strands give the Expandable Bait Sleeve just enough support to contain the bait, but do not make the Expandable Bait Sleeve difficult to operate by the fisherman. Anselmi also shows in his drawing figures that his sleeve is made from a low number of strands and that the strands are returned at the open end, like the device of Rose. The Expandable Bait Sleeve is constructed from a high number of plastic strands and the plastic strands terminate at the open end where the opposing plastic strands in the helical weave are fused together. Anselmi does not indicate that plastic could be utilized to construct his sleeve, Anselmi only stated that "wire" (metal) is used to construct his sleeve.

Anselmi teaches that his sleeve is constructed from wire woven in a helical pattern and must be opened manually by the fisherman before the eel is inserted into the sleeve. The sleeve is manually closed once the eel is inserted into

the sleeve. Since the sleeve needs to be manually opened before the bait is inserted, and the sleeve will restrain a twisting and contorting eel, this sleeve must be very rigid. The Expandable Bait Sleeve is not so rigid that it needs to be manually opened, the Expandable Bait Sleeve opens up as the bait is inserted and at the same time compresses onto the bait. The Expandable Bait Sleeve is not rigid enough to restrain the twisting and contorting motions of an eel, which would require a stronger material, such as the metal used in Anselmi.

The Expandable Bait Sleeve utilizes plastic strands where Rose's sock and Anselmi's sleeve utilize wire strands. The use of plastic strands in the Expandable Bait Sleeve provides the Expandable Bait Sleeve with significant benefits over and beyond the benefits from Rose and Anselmi devices, or the combination of Rose's and Anselmi's devices.

Rose's device utilizes 0.005 inch diameter phosphor bronze wire strands to enable a bait fish to breathe in his sock, while Anselmi utilizes another diameter of wire to give his sleeve the rigidity to contain a squirming eel. If Rose's supple 0.005 inch diameter wire strands, which allow enough flexibility in the sock for the bait fish to breathe, were used to construct Anselmi's sleeve, the squirming eel would easily escape from the loose fitting sleeve. Also, if Anselmi's rigid strands of his sleeve, which can restrain a squirming eel and needs to be opened manually, were used to construct Rose's sock, the bait fish would suffocate and the bait fish couldn't be easily inserted into the sock. Rose and Anselmi utilize different diameters or types of metal wire for the construction of their devices since the two devices exhibit different properties. Because these devices serve two different purposes (one is designed to be tight enough to hold a squirming eel, while the other is loose enough to allow a bait fish to breathe) it would be impossible to combine either of these two references without destroying the purpose of either invention.

The Expandable Bait Sleeve's use of plastic strands is superior to the metal wire strands of Rose and Anselmi since the plastic strands combine the desirable properties of Rose's and Anselmi's devices, yet it does not exhibit the undesirable properties of Rose's and Anselmi's devices. The Expandable Bait Sleeve strands are supple enough to allow the Expandable Bait Sleeve to open as the bait is

inserted, and at the same time it is rigid enough to compress onto the bait at all times. Yet, the Expandable Bait Sleeve does not loosely fit around the bait (like Rose), or does not need to be manually opened to insert the bait (like Anselmi).

The Expandable Bait Sleeve also contains a feature that Rose and Anselmi do not provide. The strands of the sleeve terminate at the open end and the strands are fused with opposing strands in the helical weave. Rose teaches that the strands bend and return to the tail end from the open end, while Anselmi shows that the strands are bent and returned at the open in its drawing figures. As mentioned previously, by having the strands terminate at the open end, the bait sleeve is able to compress on the bait at the open mouth end, unlike Rose and Anselmi.

Rose explicitly teaches that it would be impractical to use more than 8 strands, whereas the Expandable Bait Sleeve uses more than 20 strands. Rose's sock allows the bait to breathe since it only contracts when the bait attempts to back out of the sock, while the Expandable Bait Sleeve is superior since it compresses onto the bait at all times.

Amselmi teaches that wire should be utilized as the material for his sleeve and does not indicate that it would be beneficial to utilize another type of material for a bait sleeve. This is because his device is used to contain a living eel which needs to be contained by a very rigid sleeve. Anselmi does not teach how it would be beneficial to be able to simply insert an eel into his sleeve without manually opening the sleeve first. Anselmi teaches that a bait sleeve should be opened manually first, then the bait is inserted into the sleeve, and after the bait is positioned, the sleeve is closed. The Expandable Bait Sleeve function is far superior to Anselmi's sleeve since the Expandable Bait Sleeve opens as the bait is pushed into the sleeve by the fisherman. If a fisherman were to push an eel into Anselmi's sleeve, the bait would be harmed, since Anselmi's sleeve is not supple enough to open as the bait is inserted. This is why Anselmi teaches to open the sleeve before the bait is inserted.

It is for these reasons that the use of plastic in general and polyethylene terephthalate in particular, would not have been obvious to Rose or Anselmi. In fact, using plastic would have destroyed the utility of each of those

inventions, since using plastic in Rose's device would kill the live bait and using plastic in Anselmi's device would not keep a live eel from escaping.

The EBS is also a simple product that can be used with common fishing hooks and adapted to other fishing lures, unlike the devices of Rose and Anselmi which must utilize a complex network of clips, shanks and specialized hooks to facilitate their use and are constructed for only one application.

The examiner also objected that it would be obvious that devices of Caplan, Franklin, Hicks, Hudson, Peiper and Zander could be made from polyethylene terephthalate (PET) instead of their referenced material. However, their devices would not function properly using PET. If Franklin made his solid (non-aperatured) sleeve out of PET instead of surgical tube it would be useless, because PET in this configuration (FIG 2) is too rigid to mimic the movements of a living eel. On the other hand, if Zander made his lure out of woven PET instead of woven metallic fabric the lure's tail would not retain the correct shape because PET is too flexible, bends easily and tries to regain its normal posture in this type of configuration.

Based on my 30 years of experience fishing, and my thorough analysis of the prior art, the expandable bait sleeve provides substantial benefits over the other inventions that would have not been obvious or practical.

Sincerely yours,

/Daniel Wyatt/

Daniel Wyatt

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